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04 MAY 2010

May 2, 2010

The Honorable Deborah A. Batts  
 United States District Judge  
 United States Courthouse  
 500 Pearl Street, Rm. 2510  
 New York, New York 10007

Re: *Europa Maritime S.A. v. Manganese Transatlantic Corp.*  
Case No.: 08-CV-09523 (DAB)

Dear Judge Batts:

~~MEMO ENDORSED~~

Request  
Denied.  
/DAB/  
S-14-10

We write this letter to renew our request that Your Honor schedule a pre-motion conference in this case pursuant to the Court's individual practices regarding Rule 12 motions. Defendant Manganese Transatlantic Corp. ("MTC") seeks to move the Court for vacatur of the existing attachment of funds pursuant to Rule 12(b)(2) based on the defense of lack of personal jurisdiction. A parallel ground for this relief is a hearing under Rule E(4)(f). This defense was reserved in the agreement between the parties and should be squarely presented to the Court for the Court's proper consideration of *all* the facts.

~~MEMO ENDORSED~~

A copy of our previous letter is attached for the Court's reference. In addition, we have attached a copy of the motion we propose to submit, along with the supporting declaration and a very few pages of exhibits.

Since our letter on March 17, there have been two significant decisions maintaining attachments. Neither of those cases presents facts similar to those in MTC's case. In one case, announced in a matched pair of decisions by Judge Hellerstein, Judge Hellerstein declined to release attached funds when a non-party judgment creditor surfaced and sought to execute its judgment against the attached funds. There is no such circumstance here, and even in that case, the Rule B plaintiff itself was no longer secured via Rule B. The second decision is by Judge Sweet, in which he declined to vacate an attachment in large part because he had previously applied a civil contempt sanction against the defendant.

MTC reserved its rights in this dispute, rights adopted by the *Hawkinet* court and protected *even when a defendant does not reserve its rights*.

We respectfully request that the Court set a date and time for a pre-motion conference to arrange for the prompt resolution of this issue. Thank you for your time and consideration.

5/2/2010  
Page 2

Respectfully submitted,



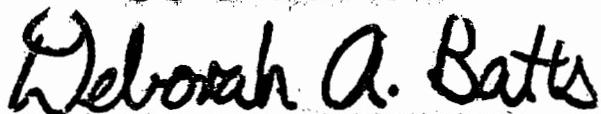
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MTCJudgeBatts pre-mot conf 17-Mar-10.doc

SO ORDERED



DEBORAH A. BATTIS  
UNITED STATES DISTRICT JUDGE